



THE FORT ST. GEORGE GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

5/10/37

No. 17]

MADRAS, FRIDAY, OCTOBER 1, 1937.

[PART II, 1937]

LOCAL ADMINISTRATION DEPARTMENT.

NOTIFICATION.

Fort St. George, September 28, 1937.
[S. G. No. 55-1, Local Admin.]

No. 55-1—Order number 55 of the Commissioner
Act, 1934 (of 1934), read with paragraph 5 (b) of
the India and Burma (Treasury) Provisions Order,
1937, and in accordance of Law (General) Depart-
ment Notification No. 555 published at page 175-
176 of Part II of the Fort St. George Gazette, dated
29th September 1935, as subsequently amended in so
far as it relates to the tax on carriages not being in
use as a passenger or goods vehicle, the
Governor is hereby pleased to authorize the Acting
Commissioner to impose with effect on and
from the 1st October, 1937 a tax of the rate of two
paise per every bullock for every cart or other
vehicle without springs kept or let out for
hire by the Wellington Chattram.

L. J. Modyer,
Secretary to Government.

Registered No. M.C. 1



THE FORT ST. GEORGE GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 41

MADRAS, FRIDAY, OCTOBER 1, 1937.

[Price, Rupees,

Part IV—Proceedings of the Madras Legislature

CONTENTS

Act No. X of 1937.—*Miscellaneous Provisions*

1937

Act of the Madras Legislature.

The following Act of the Madras Legislature received the assent of His Excellency the Governor on the 1st October 1937 and is hereby published for general information:—

ACT No. X OF 1937

An Act to introduce and extend the prohibition of the manufacture, sale and consumption of intoxicating liquors and drugs in the Province of Madras.

Whereas it is expedient as early as possible to bring about the prohibition, except for medicinal, scientific, industrial or such like purposes, of the production, manufacture, possession, export, import,

transport, purchase, sale and consumption of intoxicating liquors and drugs in the Province of Madras;

AND WHEREAS it is desirable to give effect to the abovesaid policy by introducing it in certain selected areas in the said Province and utilizing the experience gained therein for extending it to the other areas thereof;

It is hereby enacted as follows:—

CHAPTER I.—PRELIMINARY.

1. (1) This Act may be called the Madras Prohibition Act, 1937

(2) It extends to the whole of the Province of Madras.

(3) (a) This section and sections 3 and 4 shall come into force in the whole of the Province of Madras at once.

(b) The rest of this Act shall come into force—

- (i) in the district of Salem, at once; and
- (ii) in any other local area in the Province of Madras on such date as the Provincial Government may, by notification, appoint.

2. From the date on which the provisions of this Act other than sections 1, 3 and 4 come into force in any local area, the enactments mentioned in the Schedule shall cease to be in force in such area to the extent specified in the fourth column thereof:

Provided that the Provincial Government may, by notification, declare that the provisions of this Act other than sections 1, 3 and 4 shall cease to be in force in any local area on such dates as may be specified in the notification and thereupon the enactments mentioned in the Schedule with any subsequent statutory modifications thereof shall revive and come into force in such area with effect on and from such date

3. In this Act, unless there is something repugnant in the subject or context—

- (1) "bottle" means to transfer liquor from a cask or other vessel to a bottle, jar, flask or pot or similar receptacle for the purpose of sale whether any process of manufacture be employed or not and includes rebottling.

- (2) "buy" or "buying," includes any receipt, ^{"buy" or "buying"} including gift.
- (3) "Collector" means a Collector of land ^{"Collector"} revenue, or any person appointed under clause (b) of section 26 to exercise all or any of the powers or to perform all or any of the duties of a Collector under this Act.
- (4) "Commissioner" means the officer appointed under clause (a) of section 25. ^{"Commissioner"}
- (5) "cultivation" includes the tending or pro- ^{"cultivation"} tecting of a plant during growth and does not necessarily imply raising it from seed.
- (6) "export" means— ^{"export"}
- (a) to take out of any local area to which this Act applies to any other local area in the Province of Madras to which this Act has not been extended, or
 - (b) to take out of the Province of Madras otherwise than across a customs frontier as defined by the Central Government.
- (7) "import" means— ^{"import"}
- (a) to bring into any local area to which this Act applies from any other local area in the Province of Madras to which this Act has not been extended, or
 - (b) to bring into the Province of Madras, otherwise than across a customs frontier as defined by the Central Government.
- (8) "intoxicating drug" means— ^{"intoxicating drug"}
- (i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa* L.) including all forms known as *bhang*, *bidhi*, or *ganja*;
 - (ii) charas, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport;
 - (iii) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and
 - (iv) any other intoxicating or narcotic substance which the Provincial Government

may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, No. 122, 1933.

- "liquor" (9) "liquor" includes toddy, spirits of wine, methylated spirits, spirits, wine, beer and all liquid consisting of or containing alcohol;
- "local body" (10) "local body" means the Corporation of Madras, any municipality constituted under the Madras District Municipalities Act, 1920, or any local board constituted under the Madras Local Boards Act, 1920; Madras Act V of 1920. Madras Act XXIV of 1920.
- "manufacture" (11) "manufacture" includes every process, whether natural or artificial, by which any fermented, spirituous, or intoxicating liquor or intoxicating drug is produced, prepared or blended, and also re-distillation and every process for the rectification of liquor;
- "place" (12) "place" includes also a house, shed, enclosure, building, shop, tent and vessel;
- "police station" (13) "police station" includes any place which the Provincial Government may, by notification, declare to be a police station for the purposes of this Act;
- "Prohibition Officer" (14) "Prohibition Officer" means the Commissioner, a Collector, or any officer or other person lawfully appointed or invested with powers under section 25;
- "rectification" (15) "rectification" includes every process whereby spirits are purified or are coloured or flavoured by mixing any material therewith;
- "sale" or "selling" (16) "sale" or "selling" includes any transfer including gift;
- "spirits" (17) "spirits" means any liquor containing alcohol and obtained by distillation (whether it is denatured or not);

Explanation.—"Denatured" means subjected to a process prescribed by the Provincial Government by notification for the purpose of rendering unfit for human consumption;

- (18) "sweet toddy" means juice drawn into ^{sweet} receptacles treated so as to prevent any fermentation;
- (19) "toddy" means the fermented or unfermented ^{toddy} fermented juice drawn from a coconut, palmyra, date, or any other kind of palm tree; and
- (20) "transport" means to move from one ^{transport} place to another, within any local area to which this Act applies.

CHAPTER II.—PROHIBITIONS AND PENALTIES

4. (1) Whoever,
- (a) imports, exports, transports or possesses ^{Prohibition of the manufacture of, traffic in, and consumption of, opium and intoxicating drugs.} liquor or any intoxicating drug; or
- (b) manufactures liquor or any intoxicating drug; or
- (c) except in accordance with the rules made by the Provincial Government in that behalf, cultivates the hemp plant (*Cannabis sativa*), or collects any portion of such plant from which an intoxicating drug can be manufactured; or
- (d) taps any toddy-producing tree or permits or suffers to be tapped any toddy-producing tree belonging to him or in his possession; or
- (e) draws toddy from any tree or permits or suffers toddy to be drawn from any tree belonging to him or in his possession; or
- (f) constructs or works any distillery or brewery; or
- (g) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the tapping of toddy or the manufacture of liquor or any intoxicating drug; or
- (h) bottles any liquor for purposes of sale; or
- (i) sells liquor or any intoxicating drug; or
- (j) consumes or buys liquor or any intoxicating drug; or
- (k) allows any of the acts aforesaid upon premises in his immediate possession

shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Provided that nothing contained in this sub-section shall apply to any act done under, and in accordance with, the provisions of this Act or the terms of any rule, notification, order, license or permit issued thereunder.

(2) It shall be presumed until the contrary is shown—

- (a) that a person accused of any offence under clauses (a) to (j) of sub-section (1) has committed such offence in respect of any liquor or intoxicating drug or any still, utensil, implement or apparatus whatsoever for the tapping of toddy or the manufacture of liquor or any intoxicating drug, or any such materials as are ordinarily used in the tapping of toddy or the manufacture of liquor or any intoxicating drug, for the possession of which he is unable to account satisfactorily; and
- (b) that a person accused of any offence under clause (k) of sub-section (1) has committed such offence if an offence is proved to have been committed in premises in his immediate possession in respect of any liquor or intoxicating drug or any still, utensil, implement or apparatus whatsoever for the tapping of toddy or the manufacture of liquor or any intoxicating drug, or any such materials as are ordinarily used in the tapping of toddy or the manufacture of liquor or any intoxicating drug.

Punishment for rendering or attempting to render fit for human consumption any spirit, whether manufactured in British India or not, which has been denatured or has, in his possession, any spirit in respect of which he knows or has reason to believe that any such attempt has been made shall be imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

D. Whoever renders or attempts to render fit for human consumption any spirit, whether manufactured in British India or not, which has been denatured or has, in his possession, any spirit in respect of which he knows or has reason to believe that any such attempt has been made shall be imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

For the purpose of this section it shall be presumed, until the contrary is proved that any spirit which is proved on chemical analysis to contain any quantity of any of the prescribed denaturants is or contains or has been derived from denatured spirit.

6. Whoever prints or publishes in any newspaper, book, leaflet, booklet or any other single or periodical publication or otherwise displays or distributes any advertisement or other matter commending, soliciting the use of, or offering any liquor or intoxicating drug other than liquor or drugs exempted under section 16, or specially approved as of medicinal value by the Medical Council established by the Madras Medical Registration Act, 1914, shall be punished with fine which may extend to one thousand rupees:

Madras Act IV of 1914.

Provided that this section shall not apply—

- (a) to plain catalogue and price lists which may be generally or specially approved by the Commissioner; or
- (b) to the normal circulation within the Province of newspapers, periodicals and books printed and published in accordance with law outside the Province; or
- (c) to any advertisement contained in a newspaper printed and published in the Province before the first day of January 1938.

7. When two or more persons agree—

- (a) to commit or cause to be committed any offence under sub-section (1) of section 4 or under section 5, or
- (b) to evade or nullify the provisions of this Act in any area where it is in force,

Punishment for conspiracy.

each of such persons shall, notwithstanding that no act except the agreement was done by any of the parties thereto in pursuance thereof or that the agreement was made or the operations thereunder took place in an area to which this Act has not been extended, be punished with imprisonment which may extend to three years or with fine which may extend to five thousand rupees or with both.

8. Any officer or person exercising powers under this Act, who—

- (a) without reasonable ground of suspicion, enters or searches or causes to be searched, any closed place; or
- (b) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing

Punishment for violations search or arrest.

or searching for anything liable to confiscation under this Act; or

(c) wantonly and unnecessarily detain, search or arrest any person; or

(d) maliciously and falsely lay information leading to a search, seizure, detention or arrest; or

(e) in any other way maliciously exceeds his lawful powers,

shall be punished with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Punishment
for
wantonly
detain,

9. Any officer or person exercising powers under this Act, who wantonly and unnecessarily delays forwarding to a Prohibition Officer or to the officer in charge of the nearest police station as required by section 28, any person arrested or any article seized under this Act, shall be punished with fine which may extend to two hundred rupees.

Punishment
for commission
of offence
of person
arrested,
etc.

10. Any officer or person exercising powers under this Act who—

(a) unlawfully releases or abets the escape of any person arrested under this Act, or abets the commission of any offence against this Act, or

(b) acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, and

any other officer of the Provincial Government or of a local body who abets the commission of any offence against this Act,

shall be punished with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Punishment
for offences
not otherwise
provided
for.

11. Whoever is guilty of any wilful act or intentional omission in contravention of any of the provisions of this Act, or of any rule, notification or order made thereunder and not otherwise provided for in this Act, shall be punished with fine which may extend to two hundred rupees.

12. Where any offence against this Act is committed in any area to which it has been extended, who ever commits, or attempts to commit, or abets the commission of, any of the acts making up the offence shall be liable to be punished therefor, whether such commission, attempt or abetment takes place within or outside such area.

Provision made for the punishment of offences against this Act in areas to which it has been extended.

13. In any case in which an offence has been committed against this Act, the liquor, drug, materials, still, utensil, implement, or apparatus in respect of or by means of which the offence has been committed shall be liable to confiscation along with the receptacles, packages, coverings, animals, vessels, carts or other vehicles used to hold or carry the same.

Things liable to confiscation.

14. (1) When the offender is convicted or when the person charged with an offence against this Act is acquitted, but the Court decides that anything is liable to confiscation, such confiscation may be ordered by the Court.

Confiscation in law ordered.

(2) When an offence against this Act has been committed but the offender is not known, or cannot be found, or when anything liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the Collector or other Prohibition Officer in charge of the district or by any other officer authorized by the Provincial Government in that behalf, who may order such confiscation.

Provided that no such order shall be made until the expiration of fifteen days from the date of seizing the things intended to be confiscated or without hearing the persons, if any, claiming any right thereto, and evidence, if any, which they produce in support of their claims.

15. All offences under this Act shall be cognizable and the provisions of the Code of Criminal Procedure, of 1898, with respect to cognizable offences shall apply to them.

Offences under this Act to be cognizable.

CHAPTER III.—EXEMPTIONS AND LICENSES

16. (1) The Provincial Government may, by notification and subject to such conditions as they think fit, exempt any specified liquor or intoxicating drug

Power to wholly exempt.

or article containing such liquor or drug from the observance of all or any of the provisions of this Act on the ground that such liquor, drug or article is required for a medicinal, scientific, industrial or such like purpose.

(2) When issuing a notification under subsection (1), the Provincial Government shall have power to provide that a breach of any of the conditions subject to which the exemption is notified shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

Exemption of bona fide travellers and lawful consignments.

17. Until the Provincial Government by notification otherwise direct, the provisions of this Act shall not be deemed to apply—

(a) to liquor in the possession of bona fide travellers for their own personal use while passing through any local area in which this Act is in force; or

(b) to lawful consignments of liquor or intoxicating drugs carried by a railway administration through or into any such local area.

Licences for bona fide medicinal or other purposes.

18. The Provincial Government or subject to the control of the Provincial Government, the Collector, may issue licences to any person or in respect of any institution whether under the management of Government or not, for the manufacture, export, import, transport, sale or possession of any liquor, intoxicating drug or article containing such liquor or drug, on the ground that such liquor, drug or article is required by such person or in respect of such institution for a bona fide medicinal, scientific, industrial or such like purpose.

Limitation of tapping for arrack, toddy, etc.

19. Subject to the control of the Provincial Government, the Collector or any officer empowered by him may issue—

(a) licences for the tapping of any trees for sweet toddy for consumption thereof without fermentation or for the manufacture of jaggery therefrom, or

(b) permits for the possession, transport or sale of such toddy.

20. The Provincial Government or any officer Permits and licences. empowered by them in this behalf may issue—

- (a) permits authorizing any person to consume and possess for personal consumption any liquor or intoxicating drug;
- (b) permits authorizing any person or institution to possess and use any liquor for any religious purpose in accordance with ancient custom;
- (c) licences to any institution to possess liquor and issue it to such of its members as hold permits under clause (a); and
- (d) licences to any person in charge of a restaurant car attached to a railway train to possess liquor and serve it to bona fide passengers travelling by the train.

21. Every licence or permit granted under section Form and conditions of licence and permit. 18, 19 or 20 shall—

- (1) be granted on payment of such fees, if any, for such period, and subject to such restrictions and limitations and on such conditions; and
- (2) be in such form and contain such particulars as the Provincial Government may direct either generally or in any particular case.

22. Every person taking out any licence or permit Counterpart agreement to be executed by licensee. under section 18, 19 or 20 may be required to execute a counterpart agreement in conformity with the tenor of his licence or permit, and to give such security for the performance of his agreement as the Collector may require.

23. (1) The Collector may cancel or suspend any Power to cancel or suspend licence and permit. such licence or permit—

- (a) if any fee payable by the holder thereof be not duly paid; or
- (b) in the event of any breach by the holder of such licence or permit or by his servants or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence or permit; or

- (c) if the holder thereof is convicted of any offence against this Act, or of any cognizable and non-bailable offence; or
- (d) if the conditions of such licence or permit provide for its cancellation or suspension at will; or
- (e) if the purpose for which the licence or permit is granted ceases to exist.

(2) The Provincial Government may cancel or suspend any such licence or permit without assigning the aforesaid or any other reasons.

Penalty for breach of the conditions of licence and permit.

24. In the event of any breach by the holder of such licence or permit or by his servants or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence or permit, such holder shall, in addition to the cancellation or suspension of the licence or permit granted to him, be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both, unless he shall establish that all due and reasonable precautions were exercised by him to prevent any such breach.

Any person who commits any such breach shall, whether he acts with or without the permission of the holder of the licence or permit, be liable to the same punishment.

CHAPTER IV.—ESTABLISHMENT AND CONTROL.

Appointment of officers and withdrawal of powers.

25. The Provincial Government may, from time to time, by notification—

- (a) appoint an officer to exercise all the powers of a Collector under this Act in all local areas in which it is in force and to have the control of the administration of the provisions of this Act in such areas;
- (b) appoint any person other than the Collector of land revenue to exercise within a district all or any of the powers and to perform all or any of the duties of a Collector under this Act, either concurrently with or in exclusion of the Collector of land revenue, subject to such control as the Provincial Government may from time to time direct;

- (e) withdraw from the Commissioner or the Collector of land revenue any or all of the powers conferred on him by this Act;
- (d) appoint paid or honorary officers with such designations, powers and duties as the Provincial Government may think fit;
- (e) order that all or any of the powers and duties assigned to any person under clause (d) shall be exercised and performed by any existing Government official or any other person, and
- (f) delegate to any Prohibition Officer all or any of their powers under this Act.

26. (1) The Collector or other Prohibition Officer ^{Prohibition} in charge of a district may constitute prohibition ^{Committee} committees in every taluk thereof to assist him in carrying out the objects of this Act in the district.

(2) Every member of a prohibition committee shall observe the working of this Act in his taluk and report thereon and on every matter connected therewith at the prescribed intervals and at any other time he thinks fit, to the Collector or other Prohibition Officer aforesaid.

(3) Every member of a prohibition committee shall be entitled to give information at any police station in his taluk regarding the commission or suspected commission of any offence against this Act in such taluk, and the officer in charge of such station shall take action on such information and investigate the case in the manner laid down in the Code of Criminal Procedure, 1898.

T of 1924.

27. The Provincial Government may, by notification, and subject to such conditions as may be prescribed in such notification, empower all or any of the officers or classes of officers or persons mentioned in section 32 throughout the Province or in any local area, to admit a person arrested under that section to bail, to appear, when summoned or otherwise directed, before a Police or Prohibition Officer or Magistrate having jurisdiction to inquire into the offence for which such person has been arrested, and may cancel or vary such notification.

^{Power of Provincial Government to empower officers to admit persons arrested to bail.}

CHAPTER V.—POWERS, DUTIES AND PROCEEDURE OF OFFICERS, ETC.

Issue of
search
warrant.

28. If any Collector, Prohibition Officer or Magistrate upon information obtained and after such inquiry as he thinks necessary, has reason to believe that an offence under sub-section (1) of section 4 has been committed, he may issue a warrant for the search for any liquor, intoxicating drug, materials, still, utensil, implement or apparatus in respect of which the alleged offence has been committed. Any person who has been entrusted with the execution of such a warrant may detain and search, and if he thinks proper, arrest any person found in the place searched, if he has reason to believe such person to be guilty of any offence under this Act:

Provided that every person arrested under this section shall be admitted to bail by the person arresting, if sufficient bail be tendered for his appearance either before a Magistrate or before a Police or Prohibition Officer as the case may be.

Before issuing such warrant, the Collector, Prohibition Officer or Magistrate shall examine the informant on oath and the examination shall be reduced into writing in a summary manner and be signed by the informant, and also by the Collector, Prohibition Officer or Magistrate.

Power of
entry and
search
without
warrant.

29. Whenever a Collector, any Prohibition Officer not below such rank as the Provincial Government may determine, any Police Officer not below the rank of sub-inspector, any officer in charge of a police station, or any other paid or honorary officer authorized by the Provincial Government in this behalf has reason to believe that an offence under sub-section (1) of section 4 has been committed and that the delay occasioned by obtaining a search warrant under section 28 will prevent the execution thereof, he may, after recording his reasons and the grounds of his belief, at any time by day or night enter and search any place and may seize anything found therein which he has reason to believe to be liable to confiscation under this Act; and may detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of any offence under this Act:

Provided that every person arrested under this section shall be admitted to bail by such officer as aforesaid if sufficient bail be tendered for his appearance either before a Magistrate or before a Police or Prohibition Officer as the case may be.

30. The Collector, any Prohibition Officer not below such rank as the Provincial Government may determine, or any Police or other paid or honorary officer authorized by the Provincial Government in this behalf, may enter and inspect, at any time by day or by night, any place in which it is reasonably suspected that any person distils toddy or carries on the manufacture of any other liquor or any intoxicating drug, or stores any liquor or intoxicating drug; and may enter and inspect, at any time, any place in which any liquor or intoxicating drug is reasonably suspected to be kept for sale by any person; and may examine, test, measure or weigh any material, still, utensil, implement, apparatus, liquor or intoxicating drug found in such place.

31. If any officer empowered to make an entry under section 28, 29 or 30 cannot otherwise make such entry it shall be lawful for him to break open any outer or inner door or window and to remove any other obstacles to his entry into any such place.

32. Any Prohibition Officer, any officer of the Police or Land Revenue departments, and any other person authorized in that behalf—

- (a) may arrest without warrant any person found committing an offence punishable under subsection (1) of section 4;
- (b) may seize and detain any liquor, drug or other article which he has reason to believe to be liable to confiscation under this Act; and
- (c) may search any person, vessel, vehicle, animal, package, receptacle or covering, upon whom, or in or upon which, he may have reasonable cause to suspect that such liquor, drug or other article to be, or to be concealed;

Provided that if the officer or person making the arrest under this section be not empowered under section 27 to admit to bail, the person arrested shall be forthwith forwarded to an officer so empowered, if

such an officer is known to be within a distance of five miles from the place where such arrest took place. And it shall be the duty of such officer empowered as aforesaid to admit such person to bail if sufficient bail be tendered for his appearance before a Police or Prohibition Officer or Magistrate having jurisdiction to inquire into the case.

33. Any person, who may be accused or reasonably suspected of committing an offence against this Act, and who on demand made by any Prohibition Officer or any officer of the Police or Land Revenue departments or by any other person authorised in that behalf refuses to give his name and residence or who gives a name or residence which such officer or person has reason to believe to be false, may be arrested by such officer or person in order that his name and residence may be ascertained.

34. All searches under the provisions of this Act shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898.

V of 1898

35. Officials of all departments of the Provincial Government and of all local bodies shall be legally bound to assist any Prohibition or Police Officer in carrying out the provisions of this Act.

36. Every official employed by the Provincial Government or by any local body, other than a Police or Prohibition Officer, shall be bound to give immediate information at the nearest police station or to a Prohibition Officer, of all breaches of any of the provisions of this Act which may come to his knowledge; and all such officials shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches which they may know or have reason to believe are about or likely to be committed.

37. All zamindars, proprietors, tenants, under-tenants and cultivators who own or hold land or house-property on or in which there shall be any tapping for toddy or manufacture of liquor or intoxicating drugs, shall in the absence of reasonable excuse be bound to give notice of the same to a Magistrate or to a Prohibition Officer or to an officer of the Police or Land Revenue departments immediately the same shall have come to their knowledge.

33. (1) When any person is arrested under the provisions of section 28, 29, 32 or 33, the person arresting him shall, unless bail shall have been accepted under the provisions of section 28, 29 or 32, forthwith forward him to the nearest police station or to a Prohibition Officer, with a report of the circumstances under which such arrest was made.

Provision
arrested here
to be dealt
with

(2) On any such person being brought to a police station as aforesaid, the officer in charge thereof shall either admit him to bail to appear when summoned, before himself, or before the Prohibition Officer if any, or any Police Officer within the limits of the jurisdiction of which Prohibition or Police Officer, the offence with which he is charged is expected to have been committed, or, in default of bail, shall forward him in custody to such officer.

Provision of
Prohibition
officer

(3) On any such person being brought in custody before a Prohibition or Police Officer as aforesaid or appearing before such officer on bail or when such officer as aforesaid has himself made the arrest such officer shall hold such inquiry as he may think necessary and shall either release such person, or forward him in custody to, or admit him to bail to appear before, the Magistrate having jurisdiction to inquire into or try the case:

Provision of
Police or
Prohibition
Officer
empowered
to inquire

Provided that if such inquiry is not commenced and completed on the day on which such person is arrested by or is brought or appears before such officer, he shall, if sufficient bail be tendered for the appearance of the person arrested, admit such person to bail to appear on any subsequent day before himself or any other officer having jurisdiction to inquire into the case.

38. It shall be the duty of any officer arresting any person under the powers conferred by section 28 or 29, and of any officer in charge of a police station or any Police or Prohibition Officer before whom a person arrested is brought or appears under the provisions of section 38 to release such person on bail if sufficient bail be tendered for his appearance before a Police or Prohibition Officer or before a Magistrate as the case may be.

Provision
arrested in
the regulated
to bail

Bond of
accused and
sureties.

40. (1) Before any person is released on bail, a bond in such sufficient but not excessive sum of money as the officer admitting him to bail thinks proper shall be executed by such person and by one or more sureties, conditioned that such person shall attend in accordance with the terms of the bond and shall continue to attend until otherwise directed by the Police or Prohibition Officer before whom he was bailed to attend, or by the Magistrate, as the case may be.

Provided that the officer admitting any such person to bail may in his discretion dispense with the requirement of a surety or sureties to the bond executed by such person.

(2) The Provincial Government shall from time to time determine the form of the bond to be used in any local area.

Procedure in
case of
default of
person
admitted on
bail to
appear
before Prob-
itation
Officer.

41. When by reason of default of appearance of a person bailed to appear before a Police or Prohibition Officer, such officer is of opinion that proceedings should be had to compel payment of the penalty or penalties mentioned in the bond of the person bailed or of the surety or sureties, he shall forward the bond to the Magistrate having jurisdiction to inquire into or try the offence of which the person bailed was accused, and the Magistrate shall proceed to enforce the payment of the penalty or penalties in the manner provided by the Code of Criminal Procedure, 1898, for the recovery of penalties in the like case of default of appearance by a person bailed to appear before his own Court.

Power of
Police or
Prohibition
Officers to
arrest
offenders.

42. Any Police or Prohibition Officer holding an inquiry in the manner provided in section 38 may summon any person to appear before himself to give evidence on such inquiry or to produce any document relevant thereto which may be in his possession or under his control:

Provided that no such officer shall so summon any person to appear before him if the journey to be made for complying with such summons exceeds ten miles by road or fifty miles by rail or such other limits as the Provincial Government may fix.

43. Every summons issued under section 42 shall state whether the person summoned is required to give evidence or to produce a document, or both, and shall require him to appear before the said officer at a stated time and place. Form of Summons.

44. Persons so summoned shall attend as required and shall answer all questions relating to such inquiry put to them by such officer. Such answers shall be reduced to writing and shall be signed by such officer. Execution of process of summons.

45. It shall be lawful for a Police or Prohibition Officer, instead of summoning to appear before him any person who, from sickness or other infirmity, may be unable so to do, or whose by reason of rank or sex, it may not be proper to summon, to proceed to the residence of such person and there to require him to answer such questions as he may consider necessary with respect to such inquiry, and such person shall be bound so to answer accordingly, and the provisions of section 44 shall apply to such answers. When summons may be served on person at his residence.

46. Any Police or Prohibition Officer may after recording his reasons in writing, summon any person to appear before him when he has good reason to suspect of having committed an offence under this Act. On such person appearing before such officer, the procedure prescribed by sections 38 to 45 shall become applicable. Power of Police or Prohibition Officer to summon person suspected.

The officer may also, if he considers it necessary for the investigation of the case, exercise the powers conferred by sections 42 to 45 before summoning the person suspected.

47. The law for the time being in force as to summoning and compelling the attendance of persons summoned in criminal courts shall, so far as the same may be applicable, apply to any summons issued by a Police or Prohibition Officer and to any person summoned by him to appear under the provisions of this Act. Law relating to summoning and compelling attendance of witnesses in criminal courts shall apply.

48. When a Police or Prohibition Officer forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to inquire into or try the case, or admits any such person to bail to appear before such Magistrate, such officer shall also forward to such Magistrate a report setting forth the Report of Police or Prohibition Officer to Magistrate.

name of the accused person and the nature of the offense with which he is charged and the names of the persons who appear to be acquainted with the circumstances of the case, and shall send to such Magistrate any article which it may be necessary to produce before him. Upon receipt of such report the Magistrate shall inquire into such offense and try the person accused thereof in like manner as if complaint had been made before him as prescribed in the Code of Criminal Procedure, 1898.

V of 1905

power of
Police and
Prohibition
Officers
to send
statements
of witnesses
before
Magistrate

48. When a Police or Prohibition Officer forwards in custody any person accused of an offense against this Act to the Magistrate having jurisdiction to inquire into or try the case, or admits him to bail to appear before such Magistrate, such officer shall exercise all the powers conferred by the Code of Criminal Procedure, 1898, on an officer in charge of a police station in respect to causing the appearance before such Magistrate of such persons acquainted with the facts and circumstances of the case as he considers it necessary that such Magistrate shall examine as witnesses for the prosecution of such case.

V of 1905

accused
not to be
detained
in custody
for a longer
period than
twenty-four
hours
without
special
authority.

49. No person accused or suspected of having committed an offense under this Act shall be detained for a longer period than under all the circumstances of the case is reasonable; and such period shall not, in the absence of the special order of a Magistrate, whether having jurisdiction to try the case or not, exceed twenty-four hours, exclusive of the time necessary for the journey of such person to the place where a Police or Prohibition Officer may be and from thence to the court having jurisdiction to try the case.

Police
to take
charge of
articles
seized

51. All officers in charge of police stations shall take charge of and keep in safe custody pending the orders of a Magistrate or of a Prohibition Officer, all articles seized under this Act which may be delivered to them; and shall allow any Prohibition Officer who may accompany such articles to the police station, or who may be deputed for the purpose by his superior officer, to affix his seal to such articles and to take samples of and from them. All samples so taken shall

also be sealed with the seal of the officer in charge of the police station.

52 The District Magistrate shall have power to transfer any case under this Act pending inquiry or trial before any Magistrate or Officer in the district to any other Magistrate or Officer therein.

53. Nothing contained in this Act shall affect the operation of the Code of Criminal Procedure, 1898.

CHAPTER VI.—RULES AND NOTIFICATIONS.

54 (1) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, the Provincial Government may make rules—

- (a) for the issue of licences and permits and the enforcement of the conditions thereof;
- (b) prescribing the powers to be exercised and the duties to be performed by paid and honorary Prohibition Officers in furtherance of the objects of the Act;
- (c) determining the local jurisdiction of Police and Prohibition Officers in regard to inquiries and the exercise of preventive and investigating powers;
- (d) authorizing any officer or person to exercise any power or perform any duty under this Act;
- (e) prescribing the powers and duties of prohibition committees and the members thereof and the intervals at which the members of such committees shall make their reports;
- (f) regulating the delegation by the Commissioner or by Collectors or other district officers of any powers conferred on them by or under this Act;

- (g) regulating the cultivation of the hemp plant, the collection of those portions of such plant from which intoxicating drugs can be manufactured and the manufacture of such drugs therefrom;
- (h) declaring how denatured spirit shall be manufactured;
- (i) declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed under this Act or under any rule made thereunder, or by what authorities such orders may be revised, and prescribing the time and manner of presenting appeals, and the procedure for dealing therewith;
- (j) for the grant of bail to witnesses, and of compensation for loss of time to persons released under subsection (3) of section 38 on the ground that they have been improperly arrested, and to persons charged before a Magistrate with offences under this Act and acquitted;
- (k) regulating the power of Police and Prohibition Officers to summon witnesses from a distance under section 42; and
- (l) for the disposal of articles confiscated and of the proceeds thereof.

Publication of rules and orders.

55. All rules made and notifications issued under this Act shall be published in the Official Gazette and upon such publication, shall have effect as if enacted in this Act.

CHAPTER VII.—LOCAL PROCEEDINGS.

Action against the Crown, etc.

56. No action shall lie against the Crown or against any Prohibition, Police or other officer, for damages in any civil court for any act done *bona fide* done or ordered to be done in pursuance of this Act.

Courts to take judicial notice of provisions.

57. All courts shall take judicial notice of all notifications and orders conferring powers, imposing duties and making appointments under this Act.

SCHEDULE.

(See section 2.)

| Year (1) | Number (2) | Name of Act or (3) | Extent of Amendment |
|------------------------------------------------------------|---------------|--------------------------------------------|----------------------------------------------------------------|
| <i>Acts of the Governor of Port St. George in Council.</i> | | | |
| 1880 | 1 | The Madras Abolition Act, 1880 | The whole. |
| 1881 | 1 | The Madras Abolition (Amendment) Act, 1881 | Do. |
| 1882 | 1 | The Madras Abolition (Amendment) Act, 1882 | Do. |
| 1883 | 1 | The Madras Abolition (Amendment) Act, 1883 | Do. |
| <i>Acts of the Madras Legislature.</i> | | | |
| 1884 | XXIII | The Madras Abolition (Amendment) Act, 1884 | The whole. |
| <i>Acts of the Indian Legislature.</i> | | | |
| 1885 | 10 | The Bangalore Branch Act, 1885 | The whole of Section II and of the Madras Abolition Act, 1885. |

(By order of His Excellency the Governor)

P. APPU NAIR,

Secretary to Government, Legal Department.